Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of

Re: Delete Delete Delete	**)**	**GN Docket No. 25-133**
	)	
Request for Review of the Decision of the	**)**	
Universal Service Fund Administrator by	**)**	
IDT Telecom, Inc.	**)**	**WC Docket No. 06-122**
	)	
Wireline Competition Bureau Releases	**)**	
The Telecommunications Reporting	**)**	
Worksheets and Accompanying	**)**	
Instructions	**)**	**WC Docket No. 06-122**

On its 2025 FCC Form 499-A[1] (and every FCC Form 499-A since at least the version issued in 2002 to report 2021 Annual Revenue), Line 411 directs prepaid calling card providers ("PPCC") to list revenue associated with "Prepaid calling card (including card sales to customers) and non-carrier distributors) reported at face value of cards."[i2] This directive is further detailed in the Form 499-A's Instructions:

> Gross billed revenues should represent the amounts actually paid by end user customers and not the amounts paid by distributors or retailers, and should not be reduced or adjusted for discounts provided to distributors or retail establishments. All prepaid card revenues are classified as end–user revenues. For purposes of completing this Worksheet, prepaid card revenues should be recognized when end–user customers purchase the cards.[3]

As detailed below, this instruction is inequitable and discriminatory toward PPCC providers under 47 U.S.C. § 254(b)(4)&(d). Also, as detailed below and in the attached Testimony of IDT

[1] https://docs.fcc.gov/public/attachments/DA-24-1095A2.pdf (Last viewed April 10, 2025.)
[2] 2025 FCC Form 499-A. at Line 411.
[3] https://www.usac.org/wp-content/uploads/service-providers/documents/forms/2025/2025-FCC-Form-499A-Form-Instructions.pdf (Last viewed April 10, 2025) at p. 30.

Telecom, Inc. CFO Marcello Fischer, the instruction is contrary to numerous provisions of the Presidential Action entitled "ENSURING LAWFUL GOVERNANCE AND IMPLEMENTING THE PRESIDENT'S "DEPARTMENT OF GOVERNMENT EFFICIENCY" DEREGULATORY INITIATIVE, issued February 19, 2025. Accordingly, the description on Line 411 and the corresponding instruction must be struck from all future FCC Forms 499-A. Language directing PPCC providers to report revenue in accordance with Generally Acceptable Accounting Principles or other non-discriminatory principles could be included or simply no additional language need be provided, as that would clearly instruct providers to report their §PPCC revenue in the same way they report all other telecommunications revenue.

The Commission's Instructions regarding the reporting of PPCC revenue are inequitable and discriminatory under 47 U.S.C. § 254(b)(4) and § 254(d). 47 U.S.C. § 254(b)(4) states:

> **Equitable and nondiscriminatory contributions**
>
> All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

47 U.S.C. § 254(d) similarly states:

> **Telecommunications carrier contribution**
>
> Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis…

The language provided by Congress and delivered to the FCC for implementation is, facially, clear: all telecommunications service providers contribute to the Fund in the same manner. This means, for example, that the FCC cannot impose different rates on contributors based on the size of the carrier or the services provided by the carrier. So you cannot charge contributors with 1B in reported revenue a higher contribution factor than contributors with less than 1B in reported

revenue. Likewise, you cannot charge a higher contribution factor to wireline providers than wireless providers or business service than for residential service. However, for one type of service provider, this neutrality has been abandoned. Each telecommunications service provider (except one) uses Generally Acceptable Accounting Principles ("GAAP") to report its revenue and debt and its contribution to the USF[4] is based on this data. The only telecommunications service provider prohibited from using GAAP are PPCC service providers and, as detailed below, the harm they suffer is considerable.

To understand why PPCC is treated as an exception, it is critical to understand at least a little bit about the PPCC business model. The PPCC business model is unique within the telecommunications industry. Generally, telecommunication and interconnected VOIP service providers sell services to wholesalers or end users. In either case, the service providers report the revenue received from their customers and remit Universal Service and Other Fees, based on that revenue.

However, PPCC providers operate under a different sales model. Specifically, PPCC providers generally sell their service (via physical cards or virtual accounts) at a significant discount (often as high as 40%) to unaffiliated distributors and/or retailers, who then sell the PPCC service either to other distributors and/or retailers or to end users often (but not always) for a retail amount which is often amount marked on the product. For example, a PPCC provider may sell a PPCC with a suggested retail price of "$10.00" to an unaffiliated distributor or retailer for as little as $6.00. However, unlike every other regulated telecommunications provider which

[4] Revenue reported on the 499-A is also used as the basis for contributions to several other funds, including the Federal TRS Fund, FCC Interstate Telecommunications Service Provider Fee; North American Numbering Plan Fee; Local Number Portability Fund; Stir/Shaken Fund (collectively "Other Funds.). Thus, just as the FCC's PPCC Instructions inflate PPCC providers' contribution to the USF, so too do they inflate PPCC providers' contribution to the Other Funds.

reports (and bases its remittances upon) billed and collected revenue, *the PPCC provider is required to report to the FCC and base its remittances to the USF and Other Funds upon recommended face value of the PPCC product, even though recovery of the face value is never realized by the PPCC, who realizes as little as 60% of the face value. It is a violation of GAAP and tax law to treat this unrealized figure as "revenue": this is "money" the PPCC never receives or treats as revenue for any accounting and/or tax purposes*. By falsely inflating the PPCC's revenue (in the above example, from $6.00 to $10.00), this inequitable and discriminatory treatment places the PPCC provider at a competitive disadvantage relative to other telecommunications service providers whose remittances are based on lower, actual revenue – revenue in accordance with GAAP and Federal tax law. In fact, the instruction, which has been implemented by USAC in audits of PPCC providers such as IDT, has caused IDT to be billed several million dollars from the administrators of the USF and the Other Fees for its never-realized "revenue," i.e., the discounts provided to distributors and retailers for distributing and selling IDT's prepaid cards.

It is important – critical, actually – to understand that USF surcharges by law should apply to the revenue generated from billed (and collected) telecommunications services. The USF surcharge should not apply to the *perceived* value of the telecommunications product (e.g., the face value of the product) if that value is not recognized as revenue. This is why telecommunication services given away for free or otherwise heavily discounted are not subject to a USF surcharge: because the question is not simply whether telecommunications service has been provided. That is only part of the question. The second half of the question is whether (or how much) *revenue* the telecommunications service provider has recognized from the provision of the service. And it is here where the PPCC rules and instructions fall short.

While the Commission has never addressed the USAC audit appeals in which IDT has raised this concern, the Commission has intimated that because the *end user* is receiving the face value of the PPCC and that no other entity within the sales chain (e.g., retailers and distributor(s)) is subject to the Commission's authority, the PPCC provider must bear the burden of reporting the face value as revenue and remitting accordingly. This is a red herring and cannot overcome its blatantly inequitable and discriminatory result. Moreover, it is inconsistent to how the FCC acts in comparable situations, such as the sale of services between telecommunications carriers. Under these rules, for example, if IDT charges a telecommunications carrier $0.01 per minute for domestic telecommunications termination services and that carrier, in turn, is charging its end-user customer $0.05 per minute for a call receiving domestic termination *but* IDT's carrier customer is not a contributor to the Universal Service Fund, the Commission does not endeavor to determine the revenue generated by the *actual* end-user's use of the service (i.e., $0.05), i.e., the "face value" of the service. Instead, it conveniently ignores the face value/billed charge to the end-user and accepts for filing (and for contribution purposes) the "wholesale-like" revenue that IDT actually received (i.e., $0.01) from its sale of telecommunications. This treatment is even more perverse when you consider that, unlike the retailers and distributors in the PPCC sales chain, the non-contributing carrier/end-user biller in this example *is* subject to the Commission's authority.

The Commission also fails to account for the fact that a PPCC sets its rates in accordance with the commercial requirement that a PPCC cannot offer end user services where the wholesale cost of providing telecommunications exceeds the revenue generated by the sale of the PPCC. Using the prior example, where a PPCC provider sells a PPCC with a $10.00 face value for $6.00 to a distributor, the PPCC provider needs to make sure its costs do not exceed $6.00 –

not $10.00 – in order to make a profit. Yet the Commission ignores this entirely and seems to think it is immaterial for a carrier to contribute to the USF and Other Fees on never-received revenue that may represent a percentage as much as 60% of the face value of PPCC. If the Commission is unwilling to alter its position that PPCC revenues should be reported at face value, at the very least, it should allow for unrealized "revenue" associated with selling PPCCs to unaffiliated distributors and retailers, i.e., discounts, to be treated as non-telecommunications revenue as discounts are incidental to the provision of end-user telecommunications service. [5] Alternatively, the Commission could allow for the reported discounts to be treated as bad debt.

It is for this reason that PPCC providers have traditionally imposed fees on their PPCCs. This has been a controversial practice – and one which is beyond the scope of filing – but it does point to a possible resolution. If the Commission chooses to retain the "face value" requirement, it can at least consider some surcharges – most notably breakage (PPCC value decremented over time, often imposed by PPCC providers to ensure that PPCCs not be kept active for eternity and/or until state escheat laws compel turning over any remaining card value) - as non-telecommunications services not subject to USF and the Other Fees.[6] There is considerable legal support for this position, most notably that breakage and certain other surcharges do not meet the definition of telecommunications services – "the offering of telecommunications (which is further defined as "transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and

[5] Where a PPCC provider sells a PPCC to a majority-owned affiliate or subsidiary, IDT believes it would be appropriate for the 499-A reported revenue to be that earned from the sale to the first minority or non-affiliated retailer or end-user.

[6] In order to avoid a "free-for-all" of PPCC providers unilaterally choosing which fees are exempt from the USF Fund and the Other Fees, the Commission could make the providers prospectively seek guidance regarding the regulatory obligation of a specific fee prior to the decision to treat it as not subject to USF and the Other Fees subject to USF the Other Fees.

received.")[7] for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used."[8] If the Commission is committed to requiring PPCC providers to report (and contribute) based on face value, it should, at the least allow those providers to treat breakage and other surcharges as incidental to the provision of the telecommunications services, i.e., not telecommunications services, and exempt them from the USF and Other Fees.

In conclusion, IDT requests that Commission find that its decision to base its USF surcharge upon the face value of PPCC is an inequitable and discriminatory violation of 47 U.S.C. § 254(b)(4) and 47 U.S.C. § 254(d) and the implementing language on the FCC Form 499-A and its instructions should be removed. The Commission should further acknowledge that PPCC providers may include discounts off of the face value their cards sold to minority and/or non-affiliated distributors and retailers; and/or (b) report the discounted amount but treat it as non-telecommunications revenue as it is not a telecommunications service; or, alternatively, as bad debt; and/or (c) report revenue from breakage and other surcharges as incidental to the provision of telecommunications service as non-telecommunications revenue.

The above section and attached testimony set forth several simple, clear arguments why the FCC's decision to impose Federal Universal Service charges upon the face value of PPCC rather than on the revenue received by PPCC providers for their provision of prepaid telecommunications services is unjust and discriminatory. The following section demonstrates how the FCC's actions violate the principles established by President Trump in the Presidential Action entitled "ENSURING LAWFUL GOVERNANCE AND IMPLEMENTING THE

[7] 47 USC Sec. 153(50).
[8] 47 USC Sec. 153(53).

PRESIDENT'S 'DEPARTMENT OF GOVERNMENT EFFICIENCY' DEREGULATORY INITIATIVE," issued February 19, 2025.

Section 2(a)(i) of the DEREGULATORY INITIATIVE seeks to identify "unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution. We allege that when the Commission directed PPCC providers to report to the FUSF based on the face value of its calling cards, rather than on the revenue generated from the sale of telecommunications via those products, it exceeded its mandate under 47 U.S.C. § 254(b)(4) & (d) to support the Fund via equitable and nondiscriminatory surcharges. As noted above, PPCC providers are the only provider of telecommunications services that contributes to the Fund based on dollars (discounts, etc.) that are never treated as revenue under any known, lawful accounting methodology. As such, PPCC providers pay a greater percentage of revenue realized under acceptable accounting practices than other telecommunications providers into the Fund (inequitable) and, having to do so, particularly when the Contribution Factor is 36.6%, places PPCC providers at an unfair disadvantage against non-PPCC providers (discriminatory).

Section 2(a)(ii) of the DEREGULATORY INITIATIVE seeks to identify "regulations that are based on unlawful delegations of legislative power. As above, we allege that when the Commission directed PPCC providers to report to the FUSF based on the face value of its products, rather than on the revenue generated from the sale of telecommunications via those products, it acted outside the parameters ("equitable and nondiscriminatory") assigned to the regulator by Congress. Further, we have proven these allegations by demonstrating how the rules and instructions applied to PPCC providers are different than all other providers and for all other services; and how those differences harm PPCC providers.

Section 2(a)(iii) of the DEREGULATORY INITIATIVE seeks to identify "regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition." As we have argued above, the best reading of the underlying statutory authority must be consistent with the principles of equity and nondiscrimination. We believe we have demonstrated that neither principle was met because the statute as implemented charges PPCC providers USF surcharges in excess of other telecommunications service providers purely based upon their business model. And we also assert that this was not the "best reading": there was a better, more rational reading of the statute: USAC could have directed PPCC providers to report their actual revenue received, in accordance with GAAP and/or other acceptable accounting practices. Or USAC could have allowed PPCC providers to exclude from their telecommunications revenue those "costs" that are built in to the face value of the PPCC but are non-telecommunications revenue, e.g., discounts to distributors. Instead of engaging in the best reading – or even a logical, reasonable one – the FCC chose the easiest reading.

Section 2(a)(vi) of the DEREGULATORY INITIATIVE seeks to identify "regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority." We assert that those matters are found here. First and foremost, U.S.C. § 254(b)(4) and 47 U.S.C. § 254(d) express that equity and nondiscrimination were to be paramount in the treatment of all telecommunications carriers and how they contribute to the Federal USF. But with the offending 499-A instructions, the FCC imposed a greater burden upon PPCC providers to contribute to the Fund. Ironically, the USF was created with the intention of bringing low-cost telecommunications services to the poorest Americans and yet the Commission unfairly burdened PPCC providers (who serve almost exclusively the poor and phone-insecure) with excessive, non-competitive fees. So, not only were the Commission's

actions not authorized by "clear statutory authority," the Commission's actions contravened the statutory authority given to them by Congress.

Section 2(a)(v) of the DEREGULATORY INITIATIVE seeks to identify "regulations that impose significant costs upon private parties that are not outweighed by public benefits." As indicated above, a PPCC sold to an end user for $10.00 might have been sold by the actual provider to a distributor for $6.00 or $7.00, leaving the PPCC to remit 33.6% of the interstate/international portion of the PPCC. However, under the rules created and implemented by USAC, a PPCC would have to remit the current rate of 36.6% on the interstate/international portion of $10.00. This is, from a competitive standpoint, impossible to overcome. And considering that the public benefit of the Telecommuncicaions Act of 1996 was to create competition and lower rates, it does not seem possible that the Commission's decision could be a benefit to the public.

Finally, Section 2(a)(vii) of the DEREGULATORY INITIATIVE seeks to identify "regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship." [T]he PPCC business had traditionally been one the easier ways in which to enter the telecom industry. And it has also been dominated by smaller entities. "[A]s of December 31, 2021, there were 62 providers that reported they were engaged in the provision of prepaid card services. Of these providers, the Commission estimates that 61 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities." FCC 24-135A1 Para.20 This indicates that nearly all carriers that the FCC defines as PPCC providers are small sized entities. Also, as noted above, since PPCC providers are the *only telecommunications* service provider who must report as revenue money that is never obtained, held or otherwise reported on its books and then report

that money as revenue and subject it to USF Contribution as well as contribution to the Other Funds, we maintain that this is a singular burden, placed upon small entities for no public benefit and solely to unduly, unreasonably harm prepaid calling card providers.

In conclusion, IDT requests that the Commission eliminate the language on the 2026 FCC Form 499-A and all subsequent annual versions of the Form that direct PPCC providers to report PPCC revenue at the face value of the PPCC when an amount less than the face value has been received by the PPCC provider for the sale of its products. In the alternative, the Commission should allow PPCC providers to treat/report as non-telecommunications revenue and/or bad debt all currently-reportable monies which comprise the difference between revenue generated under GAAP and the face value of the PPCC sold. And finally, any USAC audits in which the aforementioned issues are presented should be resolved in favor of the PPCC provider.

Respectfully submitted,

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Attachment